

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

AZARAX, INC.
as successor in interest to
to 14 BIZ HOLDINGS and
CONVEY COMMUNICATIONS
S.A. de C.V.,

*Plaintiff and Counterclaim
Defendant*

v.

CIVIL ACTION NO. 16-cv-03228-JRT-
LIB

WIRELESS COMMUNICATIONS
VENTURE, LLC; STEVE KATKA;
CHERYL SCAPANSKI; WILLIAM
SYVERSON; CHRISTIAN
BORRMAN; ANTONIO GARZA;
STINSON LEONARD STREET
LLP; BENTON COOPERATIVE
TELEPHONE COMPANY;
CENTRAL LTE HOLDINGS LLC;
AND CENTRAL STEARNS
COMSIS, INC. D/B/A ALBANY
MUTUAL TELEPHONE
ASSOCIATION;

*Defendants and Counterclaim
Plaintiff,*

v.

NICOLAS BARRERA,
Counterclaim Defendant.

DECLARATION OF MATTHEW
KILBY IN SUPPORT OF
DEFENDANTS WIRELESS
COMMUNICATIONS VENTURE,
LLC, BENTON COOPERATIVE
TELEPHONE COMPANY, CENTRAL
LTE HOLDINGS, LLC, CENTRAL
STEARNS COMSIS, INC., ALBANY
MUTUAL TELEPHONE
ASSOCIATION, STEVE KATKA, AND
CHERYL SCAPANSKI'S MOTION TO
COMPEL DISCOVERY

I, Matthew Kilby, declare, under penalty of perjury and pursuant to 28 U.S.C.

§ 1746, as follows:

1. I submit this declaration in support of the WCV Defendants' Motion to Compel Discovery. The facts set forth herein are based upon my personal knowledge, information, and belief, unless otherwise stated.

2. I am an attorney at Faegre Baker Daniels, LLP in Minneapolis, Minnesota. I am one of the attorneys representing Defendants Wireless Communications Venture, LLC, Benton Cooperative Telephone Company, Central LTE Holdings, LLC, Central Stearns Comsis, Inc., Albany Mutual Telephone Association, Steve Katka, and Cheryl Scapanski ("WCV Defendants").

3. On May 5, 2017, the WCV Defendants served their first request for production of documents; however, based on various delays, Azarax did not produce any documents until August 18, 2017. Despite promising on August 18, 2017, that the remaining documents would be produced by the end of August, Azarax did not produce any subsequent documents until October 12, 2017, and only produced documents after the WCV Defendants stated that they would move to compel the completion of the document production.

4. I requested a meet and confer after receiving Azarax's interrogatory responses and not receiving any interrogatory responses from Nicolas Barrera. The meet and confer teleconference was on October 10, 2017. During that meet and confer, we discussed Mr. Barrera's failure to respond. Barrera's counsel said they had not been able to reach Mr. Barrera for over 30 days, and they were unable to state when or if Mr. Barrera would respond to interrogatories. They never requested an extension of his time

to respond, and since October 10, 2017, still have not provided any explanation for Mr. Barrera's failure to respond.

5. During the same October 10, 2017, meet and confer, the parties also discussed Azarax's interrogatory responses and the WCV Defendants' position that some of the responses were deficient. Azarax's counsel indicated that he would review some of the interrogatories and supplement if necessary, and agreed to supplement others. As part of this meet and confer, I asked them to identify, in accordance with Rule 33(d), specific documents by Bates range where Azarax's interrogatory response referred to its document production.

6. As of October 24, 2017, Azarax had not supplemented its interrogatory responses, so I asked again whether Azarax would be supplementing its responses. In response to my inquiry, Azarax's counsel only re-sent Azarax's previous, deficient responses—the same ones we discussed at the meet and confer on October 10—and stated that they were complete.

7. Attached hereto as the exhibits stated are true and correct copies of the following documents:

Exhibit	Description
1	M. Kilby letter to M. Sydow, dated September 15, 2017.
2	WCV Defendants' First Set of Interrogatories to Azarax and Nicolas Barrera, dated September 1, 2017
3	Azarax and Barrera's objections to the WCV Defendants' First Set of Interrogatories, dated October 2, 2017

4	Azarax's responses to the WCV Defendants' First Set of Interrogatories, dated October 5, 2017
5	Email from M. Kilby to P. Sortland and M. Sydow, dated October 24, 2017
6	Letter from P. Sortland, dated October 25, 2017, with relevant attachment.

I declare under penalty of perjury that the foregoing is true and correct.

Date: November 6, 2017

s/Matthew Kilby
Matthew Kilby